

September 14, 2005

Cogent Communications Group, Inc. is submitting this letter to the Advisory Committee on Smaller Public Companies for consideration in connection with its formulation of proposed regulatory changes related to the amendments to the Securities Act of 1933, as amended, and the Rules and Regulations promulgated there under implemented by Section 404 of the Sarbanes Oxley Act. Cogent would meet the definition of a smaller public company proposed by the committee, however due to its market capitalization at June 30, 2005, it also meets the current definition of an accelerated filer and therefore will not benefit from the proposed delay in the implementation of 404 compliance requirements for non-accelerated filers.

We understand that the committee is proposing the further delay in implementation of the compliance requirements for non-accelerated filers due to the relatively greater financial burden faced by smaller public companies in meeting these compliance requirements. However, the committee proposals publicly disclosed to date do not address one of the unique components of the current regulations that also disproportionately impacts smaller companies. Our problem, and the problem of similarly situated companies, is not so much with performing the compliance work, but with the timing of the determination of the compliance requirement based on the current definition of accelerated filer. This letter requests an amendment to the definition of accelerated filer as it applies to smaller public companies by moving the market capitalization measurement date from June 30 to January 1. The current trigger for compliance with the Section 404 requirements is based on a company's market capitalization as of June 30. If the non-affiliate market capitalization is more than \$75 million on June 30, the company must be Section 404 compliant as of December 31 of the same year.

For those organizations such as ours that cross the \$75 million threshold during the year there is less than a complete year to plan and perform the Section 404 work. In our case we completed a secondary offering on June 10, 2005 and on that date we crossed the \$75 million non-affiliate market capitalization threshold. Prior to completion of our public offering our non-affiliate market capitalization was less than \$10 million. Accordingly, on June 30, 2005 we became an accelerated filer for 2005. As a result, we now have only a six-month period to complete our Section 404 work in order to be compliant by December 31, 2005. Note that since June 30, 2005 our non-affiliate market capitalization has dropped below \$75 million and if we were measured today under the current rules we would not be required to comply with Section 404 until December 31, 2006. Larger public companies with more resources and capital at their disposal may have the ability to begin preparing for Section 404 compliance in advance of meeting the accelerated filer definition, however, for a company in Cogent's position, it is not in the best interests of its stockholders to divert limited resources and undertake significant additional expense prior to meeting the accelerated filer market capitalization test. Accordingly, the relatively short six-month period for meeting the Section 404 compliance requirements is particularly burdensome to smaller public companies.

We understand that there have been discussions on increasing the \$75 million threshold and extending the non-accelerated filer compliance date to December 31, 2007. We support these efforts and ask that consideration also be given to a revision to the definition of accelerated filer to increase the time allowed for compliance for smaller public companies being incorporated as soon as possible into these revisions. As described below the greatest problem we see is the short period of time - six months - allowed for compliance once a company trips the trigger.

Certainly some companies will know well in advance whether they will trip the trigger on June 30, but not all will. In our case we were in the process of completing a public offering of our stock that consumed all of our senior management's resources. We completed the public offering on June 10, 2005 and therefore tripped the test 20 days before the measurement date.

Other smaller public companies may be in a situation where their public float fluctuates around \$75 million. One day it may be above \$75 million, another day it may be below \$75 million. A revision to allow at least one year to comply will afford smaller public companies additional time to plan for the extensive compliance work related to Section 404 and would be, we believe, consistent with the spirit of the currently discussed revisions.

Compliance with Section 404 requirements is a difficult and expensive undertaking. We expect that compliance with the Section 404 certification requirement will add at least \$400,000 to our already increased 2005 audit fees. Between 2004 and 2005 our audit fees will more than double. The significant increase is due in part to the condensed period that we have to plan and become compliant due to the measurement date requirements.

We are aware that the committee is considering various proposals, such as raising the non-accelerated filer trigger to \$700 million and delaying compliance for smaller companies. However, none of these proposals will help Cogent or similarly situated smaller public companies that crossed the \$75 million threshold at June 30, 2005 and are now required to comply by December 31, 2005. These companies must continue to work and spend to meet the current deadline and the costs are increased due to the reduction in the period for completing this effort. We ask for relief from the current rules so that the compliance requirement for ourselves and other smaller public companies just meeting the compliance trigger at June 30, 2005 will be in the year following the year in which the non-accelerated filer measurement threshold is surpassed. This would mean that we would have to meet our Section 404 compliance obligations as of the year ending December 31, 2006, not December 31, 2005. We request that the committee ask the commission to grant this relief immediately so that this burden is lifted from Cogent and similarly situated smaller public companies while the committee and the Commission considers longer-term solutions such as an amendment to the definition of accelerated filer.

We are diligently working with our outside auditors to complete the Section 404 work by our current deadline of December 31, 2005. A revision of the measurement date would afford us the opportunity to

complete this important work over an extended period and at a reduced level of professional fees.

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